

DW 04-145

BODWELL WASTE SERVICES CORPORATION

Petition for Permanent Rates

Order Approving Stipulation on Temporary Rates

O R D E R N O. 24,430

February 11, 2005

APPEARANCES: Stephen P. St. Cyr & Assoc. by Stephen P. St. Cyr for Bodwell Waste Services Corporation, and Marcia A.B. Thunberg, Esq. for Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

Bodwell Waste Services Corporation (Bodwell) is a public sewer utility located in Manchester, New Hampshire. On November 9, 2004, Bodwell filed with the New Hampshire Public Utilities Commission (Commission) a tariff seeking to permanently increase rates. Bodwell sought to collect annual revenues of \$102,324 from its 440 customers, through a fixed quarterly charge of \$58.17 per customer. In support of the rate increase, Bodwell provided testimony and supporting financial schedules.

Bodwell requested in its testimony that, in the event the Commission suspended the permanent rate, the proposed permanent rate be made a temporary rate pursuant to RSA 378:27. On November 19, 2004, the Commission issued Order No. 24,402 which suspended the tariff filed by Bodwell, and ordered a prehearing conference and technical session be held on January 4, 2005. Subsequent to the hearing and technical session, the Commission received and approved a procedural schedule which set a hearing on temporary rates for January 28, 2005. On January 21, 2005, on behalf on itself and the Parties, Staff filed a Stipulation on temporary rates with the Commission for consideration at the hearing.

II. SUMMARY OF STIPULATION

The Stipulation reached between Bodwell and Staff recommends that the Commission approve a temporary quarterly rate of \$50.33. This is the present quarterly rate charged customers and was approved by this Commission by Order No. 23,778 (September 20, 2001). The Stipulation did not contain an implementation date for the temporary rate and at hearing, Staff and Bodwell recommended the temporary rate be effective February 1, 2005. Hearing transcript of January 28, 2005 (TR. 1/28/05) at p. 9.

III. COMMISSION ANALYSIS

RSA 378:27 authorizes the Commission to grant temporary rates if, in its opinion, the public interest so requires. Such rates must be sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service, less accrued depreciation, as shown by the reports of the utility filed with the Commission, unless there appears to be reasonable ground for questioning the figures in such reports. Further, the statute contemplates the setting of temporary rates by reasonably practical and expeditious means, without such investigation as might be deemed necessary to a determination of permanent rates. *See New England Telephone & Telegraph v. State*, 95 N.H. 515, 518 (1949).

We have reviewed the terms of the Stipulation as well as Bodwell's filing, supporting testimony and exhibits presented at the January 28, 2005 hearing and we will approve the Stipulation. At hearing, Staff and Bodwell testified that Bodwell had timely filed all reports required by statute. TR. 1/8/05 at p. 10. Those reports indicate Bodwell is currently underearning and that this underearning could disadvantage both Bodwell and its customers. For these reasons, we find Bodwell is entitled to temporary rates, subject to reconciliation at the conclusion of the permanent rate case.

With respect to the effective date of the temporary rate, Staff and Bodwell recommended at hearing that the effective date of the temporary rate be February 1, 2005 on a service rendered basis. We believe this is reasonable. Bodwell testified that the proposed temporary rate was identical to the existing rate. TR. 1/28/05 at p. 9. Given that existing and temporary rates are identical, customers will see no change in their present bills. The implementation date will not impact customers rates until the rate case is concluded. This arrangement preserves bill stability and allows Bodwell to recoup the permanent rate, albeit delayed, when the temporary rate is reconciled with the permanent rate at the conclusion of this rate case. We believe this is beneficial to both customers and Bodwell. Accordingly, we find the February 1, 2005 effective date to be just, reasonable, and consistent with applicable case law.

Based on the record before us, we find the quarterly charge of \$50.33 is reasonable, taking into consideration the need to balance the respective concerns of Bodwell and its ratepayers. We further find the Stipulation is reasonable and in the public good.

Based upon the foregoing, it is hereby

ORDERED, that the Stipulation proposed by Staff and Bodwell is APPROVED; and it is

FURTHER ORDERED, that the temporary rate of \$50.33 per quarter be implemented effective February 1, 2005; and it is

FURTHER ORDERED, that Bodwell shall submit tariff pages in compliance with this Order within 15 days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this eleventh day
of February, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Michelle A. Caraway
Assistant Executive Director & Secretary